

AMENDED IN SENATE MAY 22, 2001

AMENDED IN SENATE APRIL 23, 2001

SENATE BILL

No. 3

Introduced by Senator Brulte

December 4, 2000

An act to ~~add Section 20015 to the Elections~~ *amend Section 82041.5 of and to add Section 84305.7 to, the Government Code*, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 3, as amended, Brulte. Elections: campaign expenditures: telephone advocacy.

~~Existing provisions of the Political Reform Act of 1974 prohibit a controlled committee of a candidate from making an independent expenditure and from contributing funds to another committee for the purpose of making an independent expenditure. It also requires committees, including political party committees, that are required to file online and that make an independent expenditure during an election cycle of \$1,000 or more in connection with a candidate for elective state office, to file online or an electronic report disclosing the making of the independent expenditure within specified time periods.~~

~~This bill would prohibit a candidate, committee, or other organization from expending campaign funds, directly or indirectly, to pay for a telephone call made by an individual or by electronic means and that advocates support of, or opposition to, a candidate, ballot measure, or both, unless the telephone call announces during or at the end of the call that it has been paid for or furnished by the candidate, committee, or other organization. This bill would not apply to telephone~~

~~calls made by the candidate, the campaign manager, or individuals who are volunteers.~~

Existing provisions of the Political Reform Act of 1974 define a “mass mailing” as over 200 substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter, or other inquiry.

This bill would revise this definition to include instead 200 substantially similar pieces of any item delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box, and would require the item delivered to the recipient to be a tangible item including, but not limited to, a videotape, audio tape, computer diskette, compact disc, or a written document.

Existing provisions of the act prohibit the sending of a slate mailer unless the name, street address, and city of the slate mailer organization or committee are shown on the outside of each piece of slate mailer and on one of the included inserts.

This bill would prohibit a candidate, committee, or slate mailer organization from making an expenditure for telephone calls, made by an individual or individuals or by electronic means, that supports or opposes any candidate, ballot measure, or referendum, unless during or at the end of the telephone call the name of the candidate, committee, or slate mailer organization is disclosed to the recipient of the call. This prohibition would not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

Existing law makes it a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 20015 is added to the Elections Code,~~
2 ~~to read:~~

3 ~~20015. A candidate, committee, or other organization may~~
4 ~~not expend campaign funds, directly or indirectly, to pay for a~~
5 ~~telephone call that is made by an individual or by electronic means~~
6 ~~and advocates support of, or opposition to, a candidate, ballot~~
7 ~~measure, or both, unless the telephone call announces at the end~~
8 ~~of the call that it has been paid for or furnished by the candidate,~~
9 ~~committee, or other organization. This section shall not apply to~~
10 ~~telephone calls made by the candidate, the campaign manager, or~~
11 ~~individuals who are volunteers.~~

12 ~~SEC. 2.—~~

13 ~~SECTION 1. Section 82041.5 of the Government Code is~~
14 ~~amended to read:~~

15 ~~82041.5. “Mass mailing” means over two hundred 200~~
16 ~~substantially similar pieces of mail any item delivered, by any~~
17 ~~means, to the recipient at his or her residence, place of employment~~
18 ~~or business, or post office box. For purposes of this section, the~~
19 ~~item delivered to the recipient must be a tangible item including,~~
20 ~~but not limited to, a videotape, audio tape, computer diskette,~~
21 ~~compact disc, or a written document, but does not include a form~~
22 ~~letter or other mail which is sent in response to an unsolicited~~
23 ~~request, letter, or other inquiry.~~

24 ~~SEC. 2. Section 84305.7 is added to the Government Code, to~~
25 ~~read:~~

26 ~~84305.7. (a) A candidate, committee, or slate mailer~~
27 ~~organization may not make an expenditure for telephone calls,~~
28 ~~made by an individual or individuals or by electronic means, that~~
29 ~~supports or opposes any candidate, ballot measure, or referendum,~~
30 ~~unless during or at the end of the telephone call the name of the~~
31 ~~candidate, committee, or slate mailer organization is disclosed to~~
32 ~~the recipient of the call.~~

1 **(b)** *This section does not apply to telephone calls made by the*
2 *candidate, the campaign manager, or individuals who are*
3 *volunteers.*

4 **SEC. 3.** The Legislature finds and declares that the provisions
5 of this act further the purposes of the Political Reform Act of 1974
6 within the meaning of subdivision (a) of Section 81012 of the
7 Government Code.

8 ~~**SEC. 3.**~~

9 **SEC. 4.** No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.

18 ~~**SEC. 4.**~~

19 **SEC. 5.** This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety
21 within the meaning of Article IV of the Constitution and shall go
22 into immediate effect. The facts constituting the necessity are:

23 In order to curb the practice of negative campaigning by the use
24 of false and misleading telephone calls and other electronic
25 messages in advance of several local and special elections to be
26 held in 2001, and thereby avoid the consequences to the public of
27 negative campaign tactics, it is necessary that this act take effect
28 immediately.

